

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
STANLEY GIEFER,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 567

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being an appeal of a \$50.00 civil penalty for an alleged open-burning violation; having come on regularly for hearing before the Pollution Control Hearings Board on the 7th day of June, 1974, at Tacoma, Washington; and appellant, Stanley Giefer, appearing pro se and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin; and Board member present at the hearing being Walt Woodward, presiding officer; and the Board having considered the transcript, exhibits, arguments of the parties, records and files herein and having entered on the 24th day

1 of June, 1974, its proposed Findings of Fact, Conclusions of Law and
2 Order, and the Board having served said proposed Findings, Conclusions
3 and Order upon all parties herein by certified mail, return receipt
4 requested and twenty days having elapsed from said service; and

5 The Board having received no exceptions to said proposed Findings,
6 Conclusions and Order; and the Board being fully advised in the premises;
7 now therefore,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
9 Findings of Fact, Conclusions of Law and Order, dated the 24th day of
10 June, 1974, and incorporated by this reference herein and attached
11 hereto as Exhibit A, are adopted and hereby entered as the Board's
12 Final Findings of Fact, Conclusions of Law and Order herein.

13 DONE at Lacey, Washington, this 6th day of August, 1974.

14 POLLUTION CONTROL HEARINGS BOARD

15 Walt Woodward
16 WALT WOODWARD, Chairman

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19 W. A. GISSBERG, Member

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26 FINAL FINDINGS OF FACT,
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1 CERTIFICATION OF MAILING


2 I, LaRene C. Barlin, certify that I mailed copies of the foregoing
3 document on the 7th day of August 1974, to each of the following
4 parties:

5 Mr. Stanley Giefer
6 5607 Parker Road East
7 Sumner, Washington 98390

8 Mr. Keith D. McGoffin
9 Burkey, Marsico, Rovai & McGoffin
10 818 South Yakima Avenue
11 Tacoma, Washington 98405

12 Puget Sound Air Pollution Control Agency
13 410 West Harrison Street
14 Seattle, Washington 98119

15 the foregoing being the last known post office addresses of the above-
16 named parties. I further certify that proper postage had been affixed
17 to the envelopes deposited in the U.S. mail.

18 
19 LARENE C. BARLIN

20 POLLUTION CONTROL HEARINGS BOARD

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This matter, the appeal of a \$50.00 civil penalty for an alleged open-burning violation, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer) at an informal conference and formal hearing in the Tacoma facility of the Board of Industrial Insurance Appeals on June 7, 1974.

Appellant appeared pro se; respondent through Keith D. McGoffin.
Eugene E. Barker, Olympia court reporter, recorded the proceedings.

A brief informal conference failed to produce a settlement and the formal hearing was begun. Witnesses were sworn and testified.

EXHIBIT A

1 Exhibits were admitted. Closing arguments were made.

2 From testimony heard, exhibits examined, arguments considered and
3 transcript reviewed, the Pollution Control Hearings Board makes these

4 FINDINGS OF FACT

5 I.

6 On April 5, 1974, on property owned by appellant, an outdoor fire
7 containing scraps of waste lumber and small portions of asphalt roofing
8 material was ignited and burned.

9 II.

10 The fire, observed by an inspector on respondent's staff, caused
11 respondent to serve on appellant Notice of Violation No. 9134, citing
12 Section 9.02 of respondent's Regulation I, and Notice of Civil Penalty
13 No. 1511, in the sum of \$50.00, which is the subject of this appeal.

14 III.

15 The fire was part of a demolition project on appellant's farm.
16 The demolition was of an old berry-pickers' shed which was overgrown
17 with blackberry vines. Appellant, who is fire chief at a nearby federal
18 facility, was not present at the fire site April 5, 1974. He believes
19 his demolition crew followed his instructions to obtain a permit from
20 the Sumner Fire Department to burn the blackberry vines, but no
21 substantiating testimony on this was presented.

22 IV.

23 Section 9.02 of respondent's Regulation I makes it unlawful to
24 cause or allow an outdoor fire containing asphalt products. Section 3.29
25 authorizes respondent to levy a civil penalty of not more than \$250.00
26 for any violation of respondent's Regulation I.

27 FINDINGS OF FACT,
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V.

Any Conclusion of Law hereinafter stated which is deemed to be a Finding of Fact herewith is adopted as same.

From these Findings, the Pollution Control Hearings Board comes to these

CONCLUSIONS

I.

Appellant was in technical violation, at least, of respondent's Regulation I as cited in Notice of Violation No. 9134.

II.

The violation, being minimal and probably not intentional, does not warrant the entire penalty in Notice of Civil Penalty No. 1511.

III.

Any Finding of Fact herein which is deemed to be a Conclusion of Law herewith is adopted as same.

Therefore, the Pollution Control Hearings Board issues this

ORDER

The appeal is denied, but \$25.00 of the penalty is suspended pending no similar violation for a period of six months from the date this Order becomes final.

DONE at Lacey, Washington this 24th day of June, 1974.

POLLUTION CONTROL HEARINGS BOARD

Walt Woodward
WALT WOODWARD, Chairman

W. A. Gissberg
W. A. GISSBERG, Member

FINDINGS OF FACT,
CONCLUSIONS AND ORDER